

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

Kathleen G. Rainey,

Case No. 4:21cv1335

Plaintiff,

JUDGE PAMELA A. BARKER

-vs-

Magistrate Judge Thomas Parker

Commissioner of Social Security,

**MEMORANDUM OPINION AND
ORDER**

Defendant.

This matter is before the Court upon the Report and Recommendation of Magistrate Judge Thomas Parker (Doc. No. 5), recommending that Plaintiff Kathleen G. Rainey's Motion for Leave to Proceed *In Forma Pauperis* (Doc. No. 2) be denied. No objections have been filed. For the following reasons, the Report and Recommendation is ADOPTED and Plaintiff's Motion is DENIED. Plaintiff shall pay the \$402 filing fee within fourteen (14) days of the date of this Order.

I. Background

On July 12, 2021, Plaintiff Kathleen G. Rainey filed a Complaint (Doc. No. 1) challenging the final decision of the Defendant, Andrew Saul, Commissioner of Social Security ("Commissioner"), denying her application for disability benefits under the Social Security Act, 42 U.S.C. §§ 416(i), 423, and 1381 *et seq.* ("Act"). On that same date, Plaintiff filed a Motion to Proceed *In Forma Pauperis*. (Doc. No. 2.)

Pursuant to Local Rule 72.2(b), the case was referred to Magistrate Judge Thomas Parker. On July 19, 2021, the Magistrate Judge issued a Report and Recommendation, in which he recommended that Plaintiff's Motion to Proceed *In Forma Pauperis* be denied because Rainey and her spouse's

monthly income covered their basic expenses and “the funds expected to be left over at the end of next month (\$189) and Rainey’s checking account balance (\$600) are enough to cover this court’s \$402 filing fee.” (Doc. No. 5.) Objections to the Report and Recommendation were to be filed within 14 days of service, i.e., by no later than August 2, 2021. No objections were filed.

II. Standard of Review

The applicable standard of review of a Magistrate Judge’s Report and Recommendation depends upon whether objections were made to that report. When objections are made, the district court reviews the case *de novo*. Specifically, Federal Rule of Civil Procedure 72(b) states in pertinent part:

The district judge must determine *de novo* any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instruction.

Although the standard of review when no objections are made is not expressly addressed in Rule 72, the Advisory Committee Notes to that Rule provide that “[w]hen no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *See* Fed. R. Civ. P. 72, Advisory Committee Notes. Moreover, in *Thomas v. Arn*, 474 U.S. 140, 150 (1985), the United States Supreme Court explained that “[i]t does not appear that Congress intended to require district court review of a magistrate judge’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.”

III. Analysis and Conclusion

Here, as stated above, no objections were filed to the Report and Recommendation of Magistrate Judge Parker that Plaintiff’s Motion to Proceed *In Forma Pauperis* be denied. This Court has carefully and thoroughly reviewed the Report and Recommendation, and all other relevant

documents in the record, and finds no clear error. The Report and Recommendation of Magistrate Judge Parker (Doc. No. 5) is, therefore, ADOPTED and Plaintiff's Motion to Proceed *In Forma Pauperis* (Doc. No. 2) is DENIED. Plaintiff shall pay the \$402 filing fee within fourteen (14) days of the date of this Order.

IT IS SO ORDERED.

Date: August 5, 2021

s/Pamela A. Barker
PAMELA A. BARKER
U. S. DISTRICT JUDGE